

REMARKS

Summary of the Office Action

Claims 1 - 20 are pending.

Claims 1 - 20 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,638,206.

Applicants' Response

Applicants submit herewith a Terminal Disclaimer to obviate the obviousness-type double patenting rejection to claims 1-20.

Conclusion

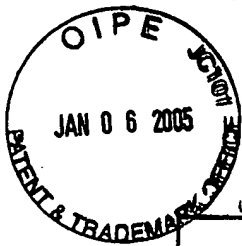
In view of the foregoing remarks, applicants submit that the present application, including claims 1-20, is in condition for allowance. An early and favorable action is earnestly requested.

Respectfully submitted,



Douglas A. Oguss
Reg. No. 48,469
Agent for Applicants

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
Customer Number 1473
1251 Avenue of the Americas
New York, N. Y. 10020
(650) 617-4000
(212) 596-9090 (fax)



PTO/SB/98 (09-04)

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STATEMENT UNDER 37 CFR 3.73(b)Applicant/Patent Owner: Thomas C. Green et al.Application No./Patent No.: 10/693,598 Filed/Issue Date: October 23, 2003

Entitled:

NeoSeed Technology LLC

(Name of Assignee)

a corporation

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.
The extent (by percentage) of its ownership interest is _____ %

in the patent application/patent identified above by virtue of either:

- A ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 011042, Frame 0793, or for which a copy thereof is attached.

OR

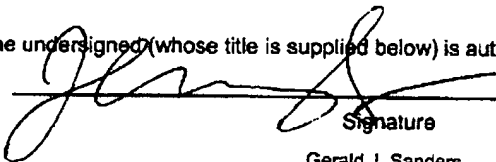
- B ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

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[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.


Signature

Gerald J. Sanders

Printed or Typed Name

CEO and President
Title

Jan 3, 05
Date
415 867 9605
Telephone Number

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**TERMINAL DISCLAIMER TO OBIVATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)
NEO-002 CON2

In re Application of: Thomas C. Green et al.

Application No.: 10/693,598

Filed: October 23, 2003

For: METHODS AND APPARATUS FOR LOADING RADIOACTIVE SEEDS INTO BRACHYTHERAPY NEEDLES

The owner*, NeoSeed Technology LLC, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,638,206 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☒ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☐ The undersigned is an attorney or agent of record. Reg. No. _____

Signature

Jan 3, 05
Date

Gerald J. Sanders

Typed or printed name

415 867-9605

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

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